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REMARKS

Claims 1-7, 18, and 19 are pending in the application.

Applicants thank Examiner VanderVegt for the courtesy he extended in conducting a telephone interview with Applicants on August 4, 2004. Specifically, the '863 patent of record was discussed. In addition, the contribution of co-inventor Elizabeth Cauchon to the pending was addressed. Applicants appreciate the time the Examiner took to review the record and offer suggestions during the telephone interview.

I. Rejection of claims under 35 U.S.C. § 102(e) or (f)

Claims 1-7, 18, and 19 stand rejected under 35 U.S.C. § 102(e) as anticipated by Zimmerman (US 5,997,863).

Applicants respectfully traverse this rejection.

The Examiner opines that the methods of the '863 patent anticipate the instantly claimed method of decreasing localized inflammatory responses. Applicants disagree with the Examiner. As Applicants have previously discussed in the Amendment filed January 26, 2004, it is Applicants belief that the instant §102(e) rejection is based on a mischaracterization of the '863 reference.

Nevertheless, upon investigating the inventors who were involved in the work leading to Example 8 of the '863 patent, Applicants have identified that two of the inventors, Clark Bennett and Pam Danagher, contributed to the rabbit studies in Example 8. To this end, Applicants submitted Declarations pursuant to 37 C.F.R. § 1.132 to establish that the use of the '863 patent

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is not by "another" under §102(a). For example, Applicants filed the executed § 1.132

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